

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HEALTH COALITION, INC.,)
)
Plaintiff,)
)
v.)
)
NEW ENGLAND ALLERGY ASTHMA)
IMMUNOLOGY & PRIMARY CARE,)
P.C. and THOMAS F. JOHNSON,)
Individually)
)
Defendants.)

Civil Action No. 05-cv-11816 MEL

**PLAINTIFF’S MOTION FOR AN ORDER
COMPELLING DISCOVERY FROM DEFENDANTS**

Pursuant to Fed. R. Civ. P. 37 and Loc. R. 37.1, Plaintiff Health Coalition, Inc. (“Health Coalition”) hereby moves the Court for an order compelling discovery from Defendants New England Allergy Asthma Immunology & Primary Care P.C. (“New England Allergy”) and Thomas F. Johnson (“Dr. Johnson”) (collectively “defendants”). Specifically, and for the reasons set forth in its supporting memorandum filed simultaneously herewith, Health Coalition respectfully requests that the Court:

- a) order that defendants immediately respond to Health Coalition’s First Set of Interrogatories and First Request for the Production of Documents (copies of which are attached as Exhibits A through D, respectively, to Health Coalition’s supporting memorandum);
- b) order that defendants have waived all objections to both sets of discovery;
- c) order that defendants serve automatic disclosures;

- d) award Health Coalition its costs, including its attorneys' fees, incurred in making this motion; and
- e) grant such other and further relief as the Court deems just and proper.

For the Court's convenience, a proposed Order is attached hereto as Exhibit 1.

Respectfully submitted,

HEALTH COALITION, INC.,

By its attorneys,

/s/ Brian M. Forbes

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Dated: December 28, 2005

LOCAL RULE 37.1 AND 7.1 CERTIFICATE

I, Brian M. Forbes, hereby certify that on December 27, 2005, I called Arthur McCabe, counsel for Defendants, and left a voicemail message in a good faith effort to resolve and narrow the issues relative to the foregoing Plaintiff's Motion For An Order Compelling Discovery. At the time of the filing of this Motion on December 28, 2005, I had not heard from Attorney McCabe. I further certify that on December 5, 2005 and December 16, 2005, I made requests of Attorney McCabe, by letter, that I wished to hold a Local Rule 37.1 conference on the subject of this motion. To date, Attorney McCabe has not responded to my requests to hold a Local Rule 37.1 conference.

/s/ Brian M. Forbes

Brian M. Forbes

Dated: December 28, 2005

CERTIFICATE OF SERVICE

I, Brian M. Forbes, hereby certify that I have this 28th day of December caused a copy of the foregoing document to be served upon all counsel of record by electronic filing.

/s/ Brian M. Forbes

Brian M. Forbes

EXHIBIT 1

UNITED STATES DISTRICT COURT
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Defendants.)

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ORDER

HAVING CONSIDERED all relevant submissions it is hereby ORDERED that:

- a) Defendants New England Allergy Asthma Immunology & Primary Care P.C. and Thomas Johnson immediately respond to Plaintiff's First Set of Interrogatories to Defendant New England Allergy Asthma Immunology & Primary Care, P.C.; Plaintiff's First Set of Document Requests to Defendant New England Allergy Asthma Immunology & Primary Care, P.C.; Plaintiff's First Set of Interrogatories to Defendant Dr. Thomas F. Johnson; and Plaintiff's First Set of Document Requests to Defendant Thomas F. Johnson;
- b) Defendants have waived all objections to both sets of discovery;
- c) Defendants immediately serve automatic disclosures; and
- d) Health Coalition submit to defendants a statement of costs, including its attorneys' fees, incurred in making the motion that necessitated this Order and reimburse Health Coalition forthwith for those costs, including attorneys' fees.

IT IS SO ORDERED:

Dated: _____, 2006

Judge Morris E. Lasker
United States District Court Judge